IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 12318 of 2007(N)

PETITIONER:

ELECTA PAUL THOTTATHIL,
AGED 55 YEARS, W/O.LATE DR.PELIS ANDREW THOTTATHIL
THOTTATHIL HOUSE, THANGASSERY P.O.,
KOLLAM.

BY ADV. SRI.P.JACOB VARGHESE
SRI.TOM JOSE (PADINJAREKARA)
SRI.V.MANOJ KUMAR
SRI.VARUGHESE M EASO
SRI.VIVEK VARGHESE P.J.
SMT.PRAISHEEL PRAKASAM

RESPONDENTS:

THE REGIONAL TRANSPORT OFFICER,
KOLLAM.

BY G.P. SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1 MARRIAGE CERTIFICATE DT 12.9.92.

P2 DEATH CERTIFICATE DT 22.11.05.

P3 REGISTRATION CERTIFICATE NO.KL 02/W-5567.

P4 WILL DT 7.8.96

P5 APPLICATION DT 31.1.07

P6 RECEIPT ISSUED BY THE MOTOR VEHICLES DEPT. DT 31.1.07

P7 PASSPORT OF THE PETITIONER.

P8 LETTER DT 6.3.07 ISSUED BY THE PETITIONER.

TRUE COPY

P.A. TO JUDGE

S. SIRI JAGAN, J.

W.P.(C)NO. 12318 OF 2007

DATED THIS THE 12th DAY OF JUNE, 2007

JUDGMENT

The petitioner's husband late Dr. Pelis Andrew Thottahtil was the owner of motor car bearing registration No.Kl 02/W-5567. After the death of her husband, on the strength of the will executed by Dr. Pelis Andrew Thottathil, the petitioner claimed transfer of ownership of the vehicle to the petitioner. However, the same has not been considered on the ground that the petitioner has not produced legal heirship certificate. According to the petitioner when the right in respect of the car devolves on the petitioner by virtue of the will there is no requirement under law, to produce any legal heirship certificate separately.

2. I have heard the learned counsel for the petitioner as also the learned Government pleader.

3. The learned Government pleader would submit that since there are other legal heirs, who may also be entitled to claim succession to the vehicle, without legal heirship certificate the ownership of the car cannot be transferred to the petitioner.

4. I am not inclined to accept the contentions of the learned

Government pleader. If there is a will by which the properties of a person has been bequeathed to another person, it is not necessary to produce the legal heirship certificate for deciding the question of devolution of property. Therefore, if going by the will, the car devolves on the petitioner, it is not necessary to insist on a separate legal heirship certificate.

5. Accordingly, there would be a direction to the respondent to consider the claim of the petitioner for transfer of ownership of the vehicle on the basis of the will registered as per No.145/05/B of Kollam Sub Registry Officer without insisting on a legal heirship certificate as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

This writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd